

103^D CONGRESS
1ST SESSION

S. 1049

To protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27 (legislative day, APRIL 19), 1993

Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lechuguilla Cave Pro-
5 tection Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that Lechuguilla Cave and other sig-
8 nificant cave resources of Carlsbad Caverns National Park
9 and adjacent public lands in the cave protection area have

1 internationally significant scientific, environmental, and
2 other values, and should be retained in public ownership
3 and protected against adverse effects of mineral explo-
4 ration and development and other activities presenting
5 threats to the areas.

6 **SEC. 3. DEFINITIONS**

7 As used in this Act (except as otherwise specified in
8 this Act):

9 (1) CAVE PROTECTION AREA.—The term “cave
10 protection area” means the lands within the area de-
11 picted on the map referred to in section 4(b).

12 (2) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

14 (3) OTHER TERMS.—All other terms, including
15 the term “public lands”, shall have the same mean-
16 ing as the terms have in the Federal Land Policy
17 and Management Act of 1976 (43 U.S.C. 1701 et
18 seq.).

19 **SEC. 4. LAND WITHDRAWAL.**

20 (a) WITHDRAWAL.—Subject to valid existing rights,
21 the approximately 6,280 acres of public lands within the
22 boundaries of the cave protection area that are subject to
23 or may become subject to the operation of the public land
24 laws, are withdrawn from all forms of appropriation or
25 disposal under the public land laws (including the mining

1 and material disposal laws) and from the operation of the
2 mineral leasing and geothermal leasing laws.

3 (b) LAND DESCRIPTION.—The lands referred to in
4 subsection (a) are the lands generally depicted on the map
5 entitled “Lechuguilla Cave Protection Area” dated April
6 1993 and filed in accordance with subsection (c).

7 (c) PUBLICATION, FILING, CORRECTION, AND IN-
8 SPECTION.—

9 (1) IN GENERAL.—As soon as is practicable
10 after the date of enactment of this Act, the Sec-
11 retary shall publish in the Federal Register a notice
12 containing the legal description of the lands with-
13 drawn under subsection (a) and shall file the legal
14 description and a detailed map of the lands referred
15 to in subsection (a) with the Committee on Natural
16 Resources of the House of Representatives and the
17 Committee on Energy and Natural Resources of the
18 Senate.

19 (2) FORCE AND EFFECT.—The map and legal
20 description referred to in paragraph (1) shall have
21 the same force and effect as if included in this Act
22 except that the Secretary may correct clerical and
23 typographical errors in the map and legal descrip-
24 tion.

1 (3) INSPECTION.—Copies of the map and legal
2 description referred to in subsection (b) shall be
3 available for public inspection in the offices of the
4 Director and appropriate State Director of the Bu-
5 reau of Land Management.

6 (d) MANAGEMENT.—The public lands withdrawn
7 under subsection (a) shall be managed by the Secretary,
8 acting through the Director of the Bureau of Land Man-
9 agement, pursuant to the Federal Land Policy and Man-
10 agement Act of 1976 (43 U.S.C. 1701 et seq.) and other
11 applicable laws, including this Act.

12 **SEC. 5. MANAGEMENT OF EXISTING LEASES.**

13 (a) SUSPENSION OF NEW DRILLING.—

14 (1) IN GENERAL.—

15 (A) PROHIBITION.—The Secretary shall
16 not permit any new drilling on or involving any
17 valid mineral or geothermal leases within the
18 lands withdrawn under section 4.

19 (B) SUSPENSION.—The Secretary shall re-
20 quire the suspension of any activities with re-
21 spect to mineral or geothermal leases if the Sec-
22 retary determines that to do so is necessary to
23 prevent an adverse impact on Lechuguilla Cave
24 or other significant cave resources of Carlsbad

1 Caverns National Park and the lands within the
2 cave protection area.

3 (2) DURATION.—

4 (A) IN GENERAL.—The prohibition on new
5 drilling imposed by the Secretary under para-
6 graph (1) shall remain in effect until the effec-
7 tive date of a record of decision regarding the
8 proposal to drill is analyzed in the Dark Can-
9 yon Environmental Impact Statement, or for 12
10 months after the date of enactment of this Act,
11 whichever occurs first.

12 (B) AFTER PROHIBITION PERIOD.—Noth-
13 ing in this subsection shall be construed to re-
14 quire the Secretary to permit or prohibit new
15 drilling after the period specified in subpara-
16 graph (A).

17 (b) NEGOTIATIONS.—

18 (1) AGREEMENTS FOR TERMINATION OF
19 LEASES.—During the period specified in subsection
20 (a)(2), the Secretary shall seek the agreement of the
21 holder of a valid existing mineral or geothermal lease
22 on the public lands withdrawn under section 4(a) for
23 the termination of the lease or to such restrictions
24 on activities on lands covered by the lease as the
25 Secretary determines to be appropriate to protect

1 Lechuguilla Cave and the other significant cave re-
2 sources of Carlsbad Caverns National Park and the
3 lands within the cave protection area. The Secretary
4 shall seek such agreement with due regard to the
5 value of the oil and gas resources which the owners
6 thereof will not be allowed to recover or produce.

7 (2) NO AGREEMENT.—

8 (A) IN GENERAL.—With respect to any
9 lease for which no agreement of the type de-
10 scribed in paragraph (1) has been reached at
11 the end of the period specified in subsection
12 (a)(2), the Secretary shall take such steps as
13 the Secretary determines to be appropriate to
14 protect Lechuguilla Cave and the other signifi-
15 cant cave resources of Carlsbad Caverns Na-
16 tional Park and the lands within the cave pro-
17 tection area.

18 (B) OPTIONS.—The steps referred to in
19 subparagraph (A) may include acquisition of
20 the lands covered by the lease or other inter-
21 ests. In the event of an acquisition, any lands
22 or interests therein acquired by the Secretary
23 shall be managed pursuant to the Federal Land
24 Policy and Management Act of 1976 (43 U.S.C.

1 1701 et seq.) and other applicable laws, includ-
2 ing this Act.

3 (3) COOPERATION OF OTHER PARTIES.—To the
4 extent the Secretary determines is desirable, the
5 Secretary shall seek the cooperation of the State of
6 New Mexico and any other parties owning lands
7 within the cave protection area with respect to such
8 restrictions on the use of relevant lands owned by
9 the parties as the Secretary may suggest to further
10 the protection of Lechuguilla Cave and the other sig-
11 nificant cave resources of Carlsbad Caverns National
12 Park and the lands within the cave protection area.

13 **SEC. 6. ADDITIONAL PROTECTION AND RELATION TO**
14 **OTHER LAWS.**

15 (a) ADDITIONAL PROTECTION.—

16 (1) IN GENERAL.—The Secretary shall take ad-
17 ditional steps to protect Lechuguilla Cave or the
18 other significant cave resources of Carlsbad Caverns
19 National Park and the lands within the cave protec-
20 tion area, if on the basis of scientific analysis found
21 by the Secretary to be relevant and credible, the Sec-
22 retary determines it is appropriate to do so.

23 (2) LIMITATIONS ON ACCESS.—To the extent
24 the Secretary finds appropriate to protect
25 Lechuguilla Cave and the other significant cave re-

1 sources of Carlsbad Caverns National Park or the
2 lands within the cave protection area, the Secretary
3 may limit or prohibit access to or across lands
4 owned by the United States or prohibit the removal
5 from the lands any mineral, geological, or cave re-
6 sources except as the Secretary may permit for
7 scientific purposes.

8 (3) INSUFFICIENT AUTHORITY.—If the Sec-
9 retary determines that existing law, including this
10 Act, provides the Secretary insufficient authority to
11 take any step the Secretary determines to be desir-
12 able to protect Lechuguilla Cave or other significant
13 cave resources of Carlsbad Caverns National Park or
14 the lands within the cave protection area, the Sec-
15 retary shall inform the Committee on Natural Re-
16 sources of the House of Representatives and the
17 Committee on Energy and Natural Resources of the
18 Senate concerning the additional authority the Sec-
19 retary believes to be necessary.

20 (b) RELATION TO OTHER LAWS.—Nothing in this
21 Act shall be construed as increasing or diminishing the
22 ability of any party to seek compensation pursuant to any
23 applicable law, including section 1491 of title 28, United
24 States Code (commonly referred to as the “Tucker Act”),
25 or as precluding any defense or claim otherwise available

- 1 to the United States in connection with any action seeking
- 2 compensation from the United States.

